



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

R. Bruce Thompson, II, Esq.
Parker Poe Adams & Bernstein LLP
PNC Plaza
301 Fayetteville Street, Suite 1400
Raleigh, NC 27601

NOV - 7 2017

RE: MUR 6857
Jerry Gappens
Lucy Gappens
New Hampshire Motor Speedway, Inc.
Speedway Motorsports, Inc.

Dear Mr. Thompson:

On October 30, 2017, the Federal Election Commission accepted the signed conciliation agreement submitted by your client, Jerry Gappens, in settlement of a violation of 52 U.S.C. § 30118(a), a provision of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has been closed in this matter.

Documents related to the case will be placed on the public record within 30 days. *See* Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016). Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. *See* 52 U.S.C. § 30109(a)(4)(B).

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that the civil penalty is due within 30 days of the conciliation agreement's effective date. If you have any questions, please contact me at (202) 694-1650.

Sincerely,

A handwritten signature in black ink that reads "Delbert K. Rigsby". The signature is written in a cursive, slightly slanted style.

Delbert K. Rigsby
Attorney

Enclosure
Conciliation Agreement

BEFORE THE FEDERAL ELECTION COMMISSION

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In the matter of

Jerry Gappens

)
) MUR 6857
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CONCILIATION AGREEMENT

This matter was initiated by signed, sworn and notarized complaints by Judy Brown and Lawson Brouse. The Federal Election Commission (the "Commission") found reason to believe that Jerry Gappens ("Respondent") violated 52 U.S.C. § 30118(a), a provision of the Federal Election Campaign Act of 1971, as amended (the "Act").

NOW, THEREFORE, the Commission and the Respondent, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondent and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 52 U.S.C. § 30109(a)(4)(A)(i).

II. Respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondent enters voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. New Hampshire Motor Speedway ("NHMS") is a corporation incorporated in the State of New Hampshire.

2. During the relevant period, Jerry Gappens was an Executive Vice President and General Manager at NHMS.

3. Marilinda Garcia for Congress ("Committee") is the authorized committee of Marilinda Garcia, a candidate for election in the Second Congressional District in New Hampshire in 2014.

4. The Act defines "contribution" to include "any gift, subscription, loan, advance, deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office." 52 U.S.C. § 30101(8)(A)(i). "Anything of value" includes all in-kind contributions and, generally, the provision of any goods or services without charge or at a charge that is less than the usual and normal charge for such goods or services. 11 C.F.R. § 100.52(d)(1).

5. The Act and Commission regulations prohibit corporations from making contributions to a federal political committee (other than independent expenditure-only political committees) and further prohibit any officer or director of any corporation from consenting to any such contribution by the corporation. 52 U.S.C. § 30118(a); 11 C.F.R. § 114.2(b).

6. The Committee held a "Race for Congress" fundraising event at NHMS on June 28, 2014, and the Committee's expenses included use of the venue, live music, food, and race car tickets. Jerry Gappens agreed to donate the costs of the event. On its 2014 July Quarterly Report, the Committee disclosed in-kind contributions from Jerry Gappens and Lucy Gappens, the spouse of Jerry Gappens, for the expenses associated with the Committee event.

7. NHMS, a corporation, and not the Gappens, paid certain event costs.

8. Jerry Gappens, an officer of NHMS, consented to the making of a corporate contribution, which is prohibited by 52 U.S.C. § 30118(a).

9. On October 27, 2016, NHMS submitted an invoice to the Committee for payment of \$4,485 representing certain costs of the Committee's event at NHMS on June 28, 2014.

V. Jerry Gappens consented to a corporate contribution in violation of 52 U.S.C. § 30118(a).

VI. 1. Respondent will pay a civil penalty to the Commission in the amount of One Thousand Two Hundred Dollars (\$1,200), pursuant to 52 U.S.C. § 30109(a)(5)(A).

2. Respondent will cease and desist from committing violations of 52 U.S.C. § 30118(a).

VII. The Commission, on request of anyone filing a complaint under 52 U.S.C. § 30109(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed the same and the Commission has approved the entire agreement.

IX. Respondent shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.


X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or

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oral, made by either party or by agents of either party, that is not contained within this written agreement shall be enforceable.

FOR THE COMMISSION:

BY:


Kathleen Guith
Associate General Counsel
for Enforcement

10/7/17
Date

FOR THE RESPONDENT:


Jerry Gappens
Respondent

9/21/17
Date

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